

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                                |   |                           |
|--------------------------------|---|---------------------------|
| In re Application of:          | ) |                           |
|                                | ) |                           |
| Véronique FERRARI et al.       | ) | Group Art Unit: 1615      |
|                                | ) |                           |
| Application No.: 09/749,036    | ) | Examiner: J. VENKAT       |
|                                | ) |                           |
| Filed: December 28, 2000       | ) | Confirmation No.: 5474    |
|                                | ) |                           |
| For: COMPOSITION COMPRISING AT | ) |                           |
| LEAST ONE POLYAMIDE            | ) |                           |
| POLYMER AND AT LEAST ONE       | ) | <b><u>VIA EFS WEB</u></b> |
| PASTY FATTY SUBSTANCE AND      | ) |                           |
| METHODS FOR USE (AS            | ) |                           |
| AMENDED)                       | ) |                           |

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REPLY TO OFFICE COMMUNICATION**

In reply to the Office Communication mailed April 29, 2008, Applicants submit the following remarks as well as the attached non-patent literature to comply with the Examiner's request under 37 C.F.R. § 1.105.

**Remarks** begin at page 2 of this paper.

**Attachments:**

**Exhibit 1 -** Redacted Proprietary Documents

**Exhibit 2 -** 2 Sets of Claims from Co-Pending Applications

**REMARKS**

**I. STATUS OF CLAIMS**

Claims 121, 132, 137, 143-144, 147, 153, 157-158, 161, 166, 169-170, 172<sup>1</sup>, 177-180, 183, 218-219, 221, and 223 are pending in this application. No claim is amended herein.

**II. REQUEST FOR INFORMATION UNDER 37 C.F.R. § 1.105**

At page 2 of the Office Communication, the Examiner states:

[W]hile the specification at page 15, lines 3-5 states that the polymer which may be used in the composition include the commercial products sold by Arizona Chemical under the names Uniclear 80 and Uniclear 100, applicants' have not supplied such teachings. Therefore, the examiner is requesting that applicants' supply a copy of non-patent literature of which he is aware and upon which he based his specification for consideration by the examiner.

In response, Applicants specifically note that support for claims 121, 132, 137, 143-144, 147, 153, 157-158, 161, 166, 169-170, 172, 177-180, 183, 218-219, 221, and 223, which recite in part, "at least one structuring polymer chosen from ethylenediamine/stearyl dimer dilinoleate copolymer and ethylenediamine/stearyl dimer tallate copolymer," can be found in the originally filed specification at least on page 15, at lines 3-7, which states:

Non-limiting examples of at least one polyamide polymer which may be used in the composition according to the present invention include the commercial products sold by Arizona Chemical under the names Uniclear 80 and Uniclear 100. These are sold, respectively, in the form of an 80% (in terms of active material) gel in a mineral oil and of a 100% (in terms of active material) gel.

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<sup>1</sup> Applicants note that this claim is pending but was omitted from the Examiner's listing at page 2 of the Office Communication.

Thus, the specification clearly conveys to one of ordinary skill in the art that Uniclear<sup>®</sup> 80 is 80% Uniclear<sup>®</sup> gel in a mineral oil and Uniclear<sup>®</sup> 100 is 100% Uniclear<sup>®</sup> gel. In lines 7-13, of page 15, the specification goes on to recite:

These polymers . . . may be mixtures of copolymers derived from monomers of (i) C<sub>36</sub> diacids and (ii) ethylenediamine. . . . Terminal ester groups result from esterification of the remaining acid end groups with at least one alcohol chosen from cetyl alcohol and stearyl alcohol.

*Id.* This description readily conveys an ethylenediamine/stearyl dimer dilinoleate copolymer or an ethylenediamine/stearyl dimer tallate copolymer to one of ordinary skill in the art.

Moreover, along with the Amendment and Response to Office Action filed on February 14, 2008, Applicants submitted, as Exhibit 1, page 606 of the International Cosmetic Ingredient Dictionary and Handbook ("CTFA"), which recites that ethylenediamine/stearyl dimer dilinoleate copolymer is a copolymer of ethylenediamine and stearyl dimer dilinoleate monomers and further reciting that a trade name for ethylenediamine/stearyl dimer dilinoleate copolymer is Uniclear<sup>®</sup>. Applicants note that the CTFA only identifies Uniclear<sup>®</sup> and does not distinguish between Uniclear<sup>®</sup> 80, Uniclear<sup>®</sup> 100, Uniclear<sup>®</sup> 100V, Uniclear<sup>®</sup> 100VG, or others. The same page also recites that ethylenediamine/stearyl dimer tallate copolymer is a copolymer of ethylenediamine and tall oil dimer acid monomers, end blocked with stearyl alcohol and further recites that a trade name for ethylenediamine/stearyl dimer tallate copolymer is Uniclear<sup>®</sup>. See Exhibit 1 submitted with the Amendment and Response filed February 14, 2008. Again, Applicants note that the CTFA only identifies Uniclear<sup>®</sup>.

Furthermore, solely in an effort to advance prosecution of this application, Applicants provide the Examiner with a redacted version of confidential proprietary documents from the Assignee company that provides additional evidence that ethylenediamine/stearyl dimer tallate and dilinoleate copolymers were known as Uniclear® prior to the filing date of the present application. See Exhibit 1 submitted herewith, Redacted Proprietary Documents. Applicants do not believe that the confidential proprietary documents are either necessary or legally required in the present application.

As discussed above, the specification describes the copolymers known as Uniclear® and necessarily establishes that the copolymers elected were known at the time the application was filed. The supplied information from the CTFA also demonstrates that Uniclear® is the trade name for ethylenediamine/stearyl dimer tallate copolymer and ethylenediamine/stearyl dimer dilinoleate copolymer. Finally, the redacted confidential proprietary documents also show that the at least one copolymer claimed was known by those of ordinary skill as Uniclear® at the time of filing of the present application. Accordingly, Applicants submit that claims 121, 132, 137, 143-144, 147, 153, 157-158, 161, 166, 169-170, 172, 177-180, 183, 218-219, 221, and 223 are fully supported by the specification as filed.

Applicants believe that by submitting the remarks above and the attachments they have complied with the Examiner's request for information under 37 C.F.R. 1.105. Thus, Applicants respectfully request the timely allowance of the pending claims.

**III. COMMONLY ASSIGNED CO-PENDING APPLICATIONS AND PATENTS**

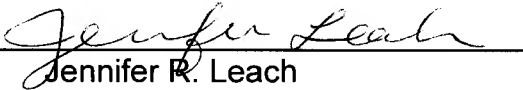
In previous submissions, Applicants noted information regarding co-pending applications and patents, including the present application, and submitted copies of the pending claims as of the date of those submissions for every case identified. Applicants submit herewith, as Exhibit 2, a copy of the pending and/or issued claims of Application Nos. 10/933,431, and 10/918,579, which have been amended or issued since February 14, 2008. Applicants submit those claims for the Office's convenience in evaluating any potential issues regarding statutory or obviousness-type double patenting.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: May 19, 2008

By:   
Jennifer R. Leach  
Reg. No. 54,257

**Attachments:**

**Exhibit 1 -** Redacted Proprietary Documents

**Exhibit 2 -** 2 Sets of Claims from Co-Pending Applications

**EXHIBIT 1**

Redacted Proprietary Documents

## Identification

REDACTED

Nom Chimique : CONDENSAT DIACIDE EN C36 HYDROGENE/ETHYLENE DIAMINE, ESTERIFIE PAR ALCOOL STEARYLIQUE

Nom CTFA :

REDACTED

## Références commerciales

| Références commerciales | Fournisseurs |
|-------------------------|--------------|
| UNICLEAR 100 V          | REDACTED     |

REDACTED

| Numéro de CAS | Nom CTFA substance  | Nom européen substance | % sub. | Rôle | Type     | Color index | % etiq. | N° eincs |
|---------------|---|------------------------|--------|------|----------|-------------|---------|----------|
| REDACTED      | ETHYLENEDIAMINE/TALL OIL DIMER ACID/STEARYL ALCOHOL COPOLYMER |                        |        |      | REDACTED |             |         |          |
|               | REDACTED  |                        |        |      |          |             |         |          |

REDACTED

05/07/2000

REDACTED

**Identification.**

Code R.A.D:

REDACTED

Code Oréal: REDACTED

Codage demandé le : 13/07/00

Code attribué le : 07/11/00

**Réf. Commerciale**

**Fabricant / Distributeur**

UNCLEAR 100 VG

REDACTED

(DGT) UNCLEAR 100 VG

Nom chimique R.A.D : CONDENSAT DIACIDE EN C36 HYDROGENE ETHYLENE DIAMINE, ESTERIFIE PAR  
ALCOOL STEARYLIQUE (PM: ENVIRON 4000) STABILISE (ANOX 20)

Nom INCI USA : ETHYLENEDIAMINE/STEARYL DIMER DILINOLEATE COPOLYMER

REDACTED



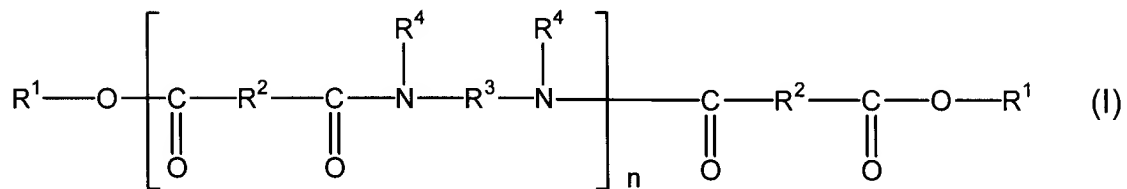
**EXHIBIT 2**

Copies of Claims from 2 Co-Pending Applications

**PENDING CLAIMS**  
Application No. 10/933,431  
Attorney Docket No. 05725.0932-01000  
Filed: November 22, 2004

1. A composition comprising a liquid fatty phase comprising:
- (i) at least one volatile solvent; and
  - (ii) at least one structuring polymer chosen from polymers of

formula (I)



in which n denotes a number of amide units, such that the number of ester groups represents from 10% to 50% of the total number of ester and amide groups; R<sup>1</sup> is, in each case, independently an alkyl or alkenyl group having at least 4 carbon atoms; R<sup>2</sup> independently represents, in each case, a C<sub>4</sub> to C<sub>42</sub> hydrocarbonaceous group, provided that 50% of the R<sup>2</sup> groups represent a C<sub>30</sub> to C<sub>42</sub> hydrocarbonaceous group; R<sup>3</sup> independently represents, in each case, an organic group provided with at least 2 carbon atoms, with hydrogen atoms and optionally with one or more oxygen or nitrogen atoms; and R<sup>4</sup> independently represents, in each case, a hydrogen atom, a C<sub>1</sub> to C<sub>10</sub> alkyl group or a direct bond to R<sup>3</sup> or another R<sup>4</sup>, so that the nitrogen atom to which both R<sup>3</sup> and R<sup>4</sup> are bonded forms part of a heterocyclic structure defined by R<sup>4</sup>-N-R<sup>3</sup>, with at least 50% of the R<sup>4</sup> groups representing a hydrogen atom.

2-42. (Canceled).

43. The composition as claimed in claim 1, wherein R<sup>1</sup> is a C<sub>12</sub> to C<sub>22</sub> alkyl group.

44. The composition as claimed in claim 1, wherein  $R^2$  is a group having 30 to 42 carbon atoms.

45. The composition as claimed in claim 1, wherein the at least one polymer is present in an amount ranging from 0.5 to 80% based on the total weight of the composition.

46. The composition as claimed in claim 1, wherein the at least one volatile solvent is chosen from oils which do not have a flashpoint and oils which have a flashpoint ranging from 40 to 100°C.

47. The composition as claimed in claim 1, wherein the at least one volatile solvent is chosen from volatile hydrocarbonaceous oils having from 8 to 16 carbon atoms.

48. The composition as claimed in claim 1, wherein the at least one volatile solvent is chosen from branched  $C_8$ - $C_{16}$  alkanes and branched  $C_8$ - $C_{15}$  esters.

49. The composition as claimed in claim 1, wherein the at least one volatile solvent is chosen from  $C_8$ - $C_{16}$  isoparaffins and isododecane.

50. The composition as claimed in claim 1, wherein the at least one volatile solvent is present in an amount ranging from 3 to 99.5% by weight of the composition.

51. The composition as claimed in claim 1, wherein the composition further comprises at least one nonvolatile oil.

52. The composition as claimed in claim 1, wherein the composition further comprises at least one additional additive chosen from antioxidants, essential oils, preserving agents, fragrances, fillers, fatty compounds that are pasty at room temperature, neutralizing agents, gums, liposoluble polymers and polymers that are

dispersible in a lipophilic medium, cosmetic and dermatological active agents, dispersants, and an aqueous phase comprising water that is optionally thickened or gelled with an aqueous-phase thickener or gelling agent and optionally water-miscible compounds.

53. The composition as claimed in claim 1, wherein the composition further comprises at least one coloring agent.

54. The composition as claimed in claim 1, wherein the composition further comprises at least one wax.

55. The composition as claimed in claim 1, wherein the composition comprises a mascara, an eyeliner, a foundation, a lipstick, a blusher, a make-up-removing product, a make-up product for the keratin fibers, a nail composition, an eyeshadow, a face powder, a concealer product, a shampoo, a conditioner, an antisen product, a treatment and/or care product for keratin fibers, or a deodorant product.

56. A composition comprising a liquid fatty phase comprising:

(i) at least one volatile solvent; and

(ii) at least one structuring polymer chosen from

ethylenediamine/stearyl dimer tallate copolymer and ethylenediamine/stearyl dimer dilinoleate copolymer.

57. The composition as claimed in claim 56, wherein the at least one volatile solvent is chosen from oils which do not have a flashpoint and oils which have a flashpoint ranging from 40 to 100°C.

58. The composition as claimed in claim 56, wherein the at least one volatile solvent is chosen from volatile hydrocarbonaceous oils having from 8 to 16 carbon atoms.

59. The composition as claimed in claim 56, wherein the at least one volatile solvent is chosen from branched C<sub>8</sub>-C<sub>16</sub> alkanes and branched C<sub>8</sub>-C<sub>15</sub> esters.

60. The composition as claimed in claim 56, wherein the at least one volatile solvent is chosen from C<sub>8</sub>-C<sub>16</sub> isoparaffins and isododecane.

61. The composition as claimed in claim 56, wherein the at least one volatile solvent is present in an amount ranging from 3 to 99.5% by weight of the composition.

62. The composition as claimed in claim 56, wherein the composition further comprises at least one nonvolatile oil.

63. The composition as claimed in claim 56, wherein the composition further comprises at least one additional additive chosen from antioxidants, essential oils, preserving agents, fragrances, fillers, fatty compounds that are pasty at room temperature, neutralizing agents, gums, liposoluble polymers and polymers that are dispersible in a lipophilic medium, cosmetic and dermatological active agents, dispersants, and an aqueous phase comprising water that is optionally thickened or gelled with an aqueous-phase thickener or gelling agent and optionally water-miscible compounds.

64. The composition as claimed in claim 56, wherein the composition further comprises at least one coloring agent.

65. The composition as claimed in claim 56, wherein the composition further comprises at least one wax.

66. The composition as claimed in claim 56, wherein the composition comprises a mascara, an eyeliner, a foundation, a lipstick, a blusher, a make-up-removing product, a make-up product for keratin fibers, a nail composition, an eyeshadow, a face powder, a concealer product, a shampoo, a conditioner, an antisen product, a care and/or treatment product for keratin fibers, or a deodorant product.

Pending Claims  
Application No. 10/918,579  
Attorney Docket No. 05725.0808-02  
Filed: August 16, 2004

1-299. (Canceled).

300. A method for providing stability to a cosmetic composition comprising including in said cosmetic composition at least one liquid fatty phase which comprises

(i) at least one structuring polymer chosen from ethylenediamine/stearyl dimer tallate copolymer and ethylenediamine/stearyl dimer dilinoleate copolymer;

(ii) at least one oil-soluble ester comprising at least one free hydroxy group with the proviso that said at least one oil-soluble ester is not castor oil; and

(iii) at least one coloring agent.

301. (Canceled).

302. The method according to claim 300, wherein said composition further comprises at least one additional fatty material.

303. The method according to claim 302, wherein said at least one additional fatty material is chosen from gums, fatty materials pasty at ambient temperature, and resins.

304. The method according to claim 300, wherein said composition further comprises at least one fatty alcohol.

305. The method according to claim 304, wherein said at least one fatty alcohol is chosen from C<sub>8</sub> to C<sub>26</sub> fatty alcohols.

306. The method according to claim 305, wherein said at least one fatty alcohol is chosen from C<sub>12</sub> to C<sub>20</sub> fatty alcohols.

307. The method according to claim 306, wherein said C<sub>12</sub> to C<sub>20</sub> fatty alcohols are chosen from myristyl alcohol, cetyl alcohol, stearyl alcohol and behenyl alcohol.

308. The method according to claim 304, wherein the at least one fatty alcohol is present in a concentration ranging from 0.1% to 15.0% by weight, relative to the weight of the composition.

309. The method according to claim 308, wherein the at least one fatty alcohol is present in a concentration ranging from 0.5% to 10.0% by weight, relative to the weight of the composition.

310. The method according to claim 309 wherein the at least one fatty alcohol is present in a concentration ranging from 0.5% to 8.0% by weight, relative to the weight of the composition.

311. The method according to claim 300, wherein said composition further comprises at least one oil-soluble polymer.

312. The method according to claim 311, wherein said at least one oil-soluble polymer is chosen from alkylated guar gums and alkyl celluloses.

313. The method according to claim 311, wherein the at least one oil-soluble polymer is present in a concentration ranging from 0.05% to 10% by weight, relative to the weight of the composition.

314. The method according to claim 313, wherein the at least one oil-soluble polymer is present in a concentration ranging from 0.1% to 5% by weight, relative to the weight of the composition.



315. The method according to claim 314 wherein the at least one oil-soluble polymer is present in a concentration ranging from 0.1% to 3% by weight, relative to the weight of the composition.

316. The method according to claim 300, wherein said composition further comprises at least one wax.

317. The method according to claim 316, wherein said at least one wax is chosen from carnauba wax, candelilla wax, ouricury wax, Japan wax, cork fiber wax, sugar cane wax, paraffin waxes, lignite wax, microcrystalline waxes, lanolin wax, montan wax, polyethylene waxes, waxes obtained by Fischer-Tropsch synthesis, silicone waxes, ozokerites, hydrogenated jojoba oil, fatty acid esters, and fatty acid ester glycerides.

318. The method according to claim 316, wherein said at least one wax is present at a concentration of up to 3% relative to the total weight of said composition.

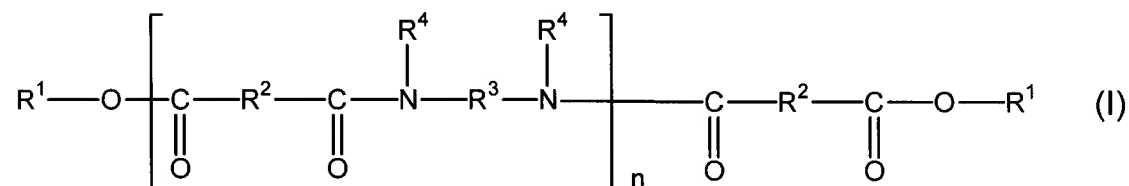
319. The method according to claim 300, wherein the composition further comprises at least one preserving agent chosen from methylparaben, ethylparaben, propylparaben, and butylparaben.

320. (Canceled).

321. A container comprising a lipstick composition comprising:

(i) at least one structuring polymer chosen from polyamide polymers of formula

(I):



in which:

-  $n$  is an integer which represents the number of amide units such that the number of ester groups present in said at least one structuring polymer ranges from 10% to 50% of the total number of all said ester groups and all said amide groups comprised in said at least one structuring polymer;

-  $R^1$ , which are identical or different, are each chosen from alkyl groups having at least 4 carbon atoms and alkenyl groups having at least 4 carbon atoms;

-  $R^2$ , which are identical or different, are each chosen from  $C_4$  to  $C_{42}$  hydrocarbon-based groups with the proviso that at least 50% of  $R^2$  are chosen from  $C_{30}$  to  $C_{42}$  hydrocarbon-based groups;

-  $R^3$ , which are identical or different, are each chosen from  $C_2$  to  $C_{36}$  hydrocarbon-based groups; and

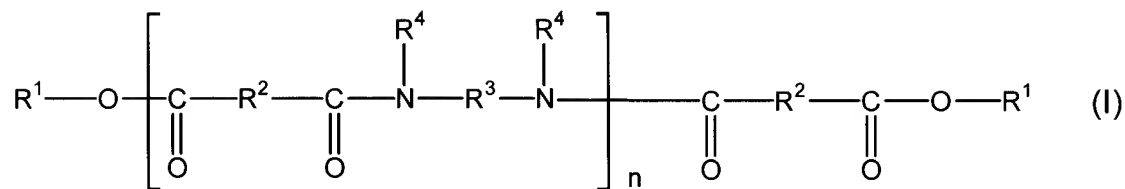
-  $R^4$ , which are identical or different, are each chosen from hydrogen and  $C_1$  to  $C_{10}$  alkyl groups, with the proviso that at least 50% of all  $R^4$  are chosen from hydrogen;

(ii) at least one oil-soluble ester comprising at least one free hydroxy group with the proviso that said at least one oil-soluble ester is not castor oil; and

(iii) at least one coloring agent.

322. A composition comprising at least one liquid fatty phase, the liquid fatty phase comprising:

(i) at least one structuring polymer chosen from polyamide polymers of formula (I):



in which:

- n is an integer which represents the number of amide units such that the number of ester groups present in said at least one structuring polymer ranges from 10% to 50% of the total number of all said ester groups and all said amide groups comprised in said at least one structuring polymer;

- $R^1$ , which are identical or different, are each chosen from alkyl groups having at least 4 carbon atoms and alkenyl groups having at least 4 carbon atoms;

- $R^2$ , which are identical or different, are each chosen from  $C_4$  to  $C_{42}$  hydrocarbon-based groups with the proviso that at least 50% of  $R^2$  are chosen from  $C_{30}$  to  $C_{42}$  hydrocarbon-based groups;

- $R^3$ , which are identical or different, are each chosen from  $C_2$  to  $C_{36}$  hydrocarbon-based groups; and

- $R^4$ , which are identical or different, are each chosen from hydrogen and  $C_1$  to  $C_{10}$  alkyl groups, with the proviso that at least 50% of all  $R^4$  are chosen from hydrogen; and

(ii) at least one UV blocker.

323. The composition according to claim 322, wherein the UV blocker is chosen from organic filters, inorganic nanoparticles and mixtures thereof.

324. The composition according to claim 323, wherein the UV blocker is a lipophilic organic filter.

325. The composition according to claim 322, wherein the UV blocker is present in an amount ranging from 0.1% to 30% of the total weight of the composition.

326. The composition according to claim 325, wherein the UV blocker is present in an amount ranging from 0.5% to 15% of the total weight of the composition.

327. The composition according to claim 322, wherein the at least one structuring polymer is chosen from ethylenediamine/stearyl dimer tallate copolymer.

328. The composition according to claim 322, wherein the at least one structuring polymer is chosen from ethylenediamine/stearyl dimer dilinoleate copolymer.

329. The composition according to claim 322, wherein said composition further comprises at least one additional fatty material.

330. The composition according to claim 329, wherein said at least one additional fatty material is chosen from gums, fatty materials pasty at ambient temperature, and resins.

331. The composition according to claim 322, wherein said composition further comprises at least one fatty alcohol.

332. The method according to claim 331, wherein said at least one fatty alcohol is chosen from C<sub>8</sub> to C<sub>26</sub> fatty alcohols.

333. The composition according to claim 332, wherein said at least one fatty alcohol is chosen from C<sub>12</sub> to C<sub>20</sub> fatty alcohols.

334. The composition according to claim 333, wherein said C<sub>12</sub> to C<sub>20</sub> fatty alcohols are chosen from myristyl alcohol, cetyl alcohol, stearyl alcohol and behenyl alcohol.

335. The composition according to claim 322, wherein the at least one fatty alcohol is present in a concentration ranging from 0.1% to 15.0% by weight, relative to the weight of the composition.

336. The composition according to claim 335, wherein the at least one fatty alcohol is present in a concentration ranging from 0.5% to 10.0% by weight, relative to the weight of the composition.

337. The composition according to claim 336, wherein the at least one fatty alcohol is present in a concentration ranging from 0.5% to 8.0% by weight, relative to the weight of the composition.

338. The composition according to claim 337, wherein said composition further comprises at least one oil-soluble polymer.

339. The composition according to claim 338, wherein said at least one oil-soluble polymer is chosen from alkylated guar gums and alkyl celluloses.

340. The composition according to claim 322, wherein the at least one oil-soluble polymer is present in a concentration ranging from 0.05% to 10% by weight, relative to the weight of the composition.

341. The composition according to claim 340, wherein the at least one oil-soluble polymer is present in a concentration ranging from 0.1% to 5% by weight, relative to the weight of the composition.

342. The composition according to claim 341 wherein the at least one oil-soluble polymer is present in a concentration ranging from 0.1% to 3% by weight, relative to the weight of the composition.

343. The composition according to claim 322, wherein said composition further comprises at least one wax.

344. The composition according to claim 343, wherein said at least one wax is chosen from carnauba wax, candelilla wax, ouricury wax, Japan wax, cork fiber wax, sugar cane wax, paraffin waxes, lignite wax, microcrystalline waxes, lanolin wax, montan wax, polyethylene waxes, waxes obtained by Fischer-Tropsch synthesis, silicone waxes, ozokerites, hydrogenated jojoba oil, fatty acid esters, and fatty acid ester glycerides.

345. The composition according to claim 344, wherein said at least one wax is present at a concentration of up to 3% relative to the total weight of said composition.

346. The composition according to claim 322, wherein the composition further comprises at least one preserving agent.

347. The composition according to claim 346, wherein the at least one preserving agent is chosen from methylparaben, ethylparaben, propylparaben, and butylparaben.

348. The composition according to claim 322, wherein the at least one liquid fatty phase further comprises at least one oil.

349. The composition according to claim 348, wherein the at least one oil is chosen from at least one polar oil and at least one apolar oil.